

Collec ¹² Bargaining ^{1.001 versions} Agreement



by & between
UFCW Local 27
and
**Pathmark
Stores, Inc.**

**United Food & Commercial
Workers Local 27
21 West Road
Baltimore, MD 21204
410-337-2700**

**January 23, 2005
through
January 26, 2008**

64 pages

AGREEMENT

Between

UFCW Local 27

and

**Pathmark
Stores, Inc.**



Effective Date: January 23, 2005
Expiration Date: January 26, 2008

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**A Message
from
Local 27 President,
Buddy Mays**

Dear Local 27 Member,

This contract is provided for you so that you can become familiar with the language and conditions it sets forth. Please take the time to read through it completely at least once.

It is extremely important for you to know what your rights are under this agreement. While it is your union's job to police the contract, it is up to you to let us know that violations are occurring. We will take it from there.

In Solidarity,

A handwritten signature in cursive script that reads "Buddy Mays".

Buddy Mays

President, UFCW Local 27

AGREEMENT made and entered into as of the 23rd day of January, 2005, by and between PATHMARK STORES, INC., hereinafter referred to as "Employer" and UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 27, chartered by the United Food and Commercial Workers International Union, AFL-CIO, CLC, hereinafter referred to as "Union".

ARTICLE 1 - PURPOSE

It is the purpose of the Employer and the Union to set forth, with particularity, in this collective bargaining agreement their duly negotiated understanding with each other in regard to the wages, hours and other conditions of employment for those employees of the Employer who are and will be represented by the Union in the appropriate bargaining unit defined herein.

ARTICLE 2 - RECOGNITION AND JURISDICTION

Section 2.1. The Employer recognizes the Union as the exclusive representative of all Employer's present and future supermarket employees, except meat, delicatessen, seafood and security employees, General and Assistant Store Managers and supervisors, within the jurisdictional area of the Union as defined in Schedule "B."

Section 2.2.

- A.** All work and services, other than that of General and Assistant Store Managers or supervisory and security employees, connected with or incidental to the handling or selling of all merchandise except meat, seafood and delicatessen, offered for sale to the public in the Employer's supermarkets covered by this Agreement, shall be performed only by employees within the unit referred to above.

- B.** The following work, services and merchandise shall be excluded under Paragraph 2a: bread and commercial bakery products, soda, specialty foods, books, greeting cards, seasonal displays, resets, non-food rack jobbers, cookies and snacks.
- C.** Employees on the payroll as of February 4, 1985 shall not be laid off from employment, nor shall their hours be reduced during the term of this Agreement because of the exclusions.
- D.** Should the Employer intend to substitute electronic checkout systems for existing equipment in any store, the Employer agrees to notify the Union in advance and to provide the Union a list of all employees regularly assigned to the store on the effective date of the utilization of said systems. Said employees shall not be removed from the Employer's payroll solely as a result of the installation of such a system. Employees may continue to be transferred, assigned to other work, or laid off in accordance with the seniority provisions of this Agreement provided the layoff is for reasons other than the installation of such a system.

ARTICLE 3 - MANAGEMENT RIGHTS

All rights and powers not expressly restricted or limited by terms and conditions of this Agreement shall remain in and be exercised at the sole discretion of the Employer.

ARTICLE 4 - UNION SHOP

Section 4.1. It shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the effective date of this Agreement shall remain members in good standing and those who are not members on the effective date of this Agreement shall, on the thirty-first (31st) calendar day following the effective date of this

Agreement, or date of execution, whichever is later, become and remain members in good standing in the Union. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after its effective date, or date of execution, whichever is later, shall, on the thirty-first (31st) calendar day following the beginning of such employment, become and remain members in good standing in the Union. This provision shall be enforced and applied in accordance with the provisions of Section 8(a)3 of the National Labor Relations Act, as amended.

Section 4.2. Upon failure of any employee to become and remain a member of the Union within the period and under the conditions specified in Paragraph 1 above, the Union shall notify the Employer, in writing, of such failure and the Employer shall, within seven (7) days of receipt of such notice, discharge any such employee as provided in the Labor Management Relations Act of 1947 as amended.

Section 4.3.

- A.** The Employer shall deduct uniform initiation fees, assessments and regular Union dues from the wages of each employee covered by this Agreement upon presentation to it of an individual, voluntary written authorization for checkoff of membership fees executed by the employee. Dues shall be due and payable on or before the first day of the month for which they are due. The Union shall certify to the Employer the amount of regular Union dues to be deducted pursuant to the check-off authorization. Said deductions shall be on a weekly basis and remitted to the Union on a monthly basis. A list of all employees for whom deductions have been made, indicating the date for which the deductions were made, regular dues, additional amounts deducted to repay shortages in dues paid due to absences, initiation fees, employee name, and social security number, shall accompany the check.. The Company agrees to transmit the initiation fees and dues

deducted from its Employees pursuant to this Article, along with identifying information concerning the deductions, in a standard format, such as ascii, ebcdic, excel spreadsheet, etc., readable in a standard windows based program, if it is possible to do so with its current technological capabilities and software.

- B.** The Employer agrees to deduct authorized Credit Union payments from the wages of employees upon receipt of proper written authorization from an employee. All such deductions and remittances to the Credit Union shall be consistent with the payroll procedures of the Employer.
- C.** The Employer agrees to deduct from the wages of employees, upon receipt of proper authorization, one annual payment to the Union's Political Action Committee. All such deductions and remittances shall be consistent with the payroll procedures of the Employer.

Section 4.4. For the purposes of this provision, membership in the Union shall mean that the employee either tenders the periodic dues and initiation fees uniformly required by the Union as a condition of acquiring or retaining membership or pays those fees and dues necessary to permit the Union to serve as an exclusive representative of employees.

Section 4.5. The Union agrees to indemnify and save the Employer harmless against any and all claims, demands, suits or liability that might arise out of or by reason of action taken or not taken in respect to the deductions made pursuant to the provisions of this agreement.

Section 4.6 - Employee Information. The Company will notify the Union in writing within thirty (30) days from the date of employment, reinstatement, or transfer into the bargaining unit of any employee, of the name of such employee, the home address, place of employment, social

security number and job title, full time or part time, and the date of employment, reinstatement, transfer, termination, or, if possible, change in status from part time to full time or full to part time. The Company agrees to send information required in this Section 4.6 electronically as outlined in Section 4.3a of this Agreement, if it is possible to do so with its current technological capabilities and software.

ARTICLE 5 - UNION ACTIVITIES

Section 5.1. There shall be no discrimination against any employees because of Union membership or activities. Neither shall there be any discrimination in employment because of race, color, creed, age, sex or sexual preference based on applicable law. It is agreed that Union duties and activities will not be carried on during hours of work. This shall not prevent the Union officials from entering stores to satisfy themselves that this Agreement is being observed.

Section 5.2. It is further agreed that complaints and grievances of the Union or the employees shall be discussed with officials of the Employer and that such matters shall not be discussed with store employees during hours of work, except where an alleged violation of this Agreement is involved.

ARTICLE 6 - LAYOFFS, PROMOTIONS, DEMOTIONS, TRANSFERS, POSTING & JOB BIDDING, DISCHARGE & APPEAL

Section 6.1 - Layoffs, Promotions, Demotions and Transfers.

- A.** In the promotion, demotion, layoff, rehiring and transferring from one type of work to another, or from one location to another, the qualifications of the employees shall be considered in conjunction with seniority standing.

- B.** Part-time employees who are promoted to full-time assignments will receive one (1) month's full-time credit for each two (2) months of part-time service in determining their proper wage, vacation and health and welfare eligibility. For the purpose of establishing full-time seniority, for layoff purposes, the date on which promoted part-time employees become full-time shall determine their full-time seniority date.
- C.** Where practicable, the Employer shall combine existing part-time assignments within each store so as to provide the maximum part-time employment per individual within the definition of part-time employment and, further, to create as many forty (40) hour full-time positions as possible.
- D.** When the schedule of a less senior employee is consistently greater than a more senior employee in another store and it is brought to the attention of the Employer, the employees involved will be exchanged provided the work can be performed by the employees involved and those employees are available for the required hours.
- E.** The Employer shall give one (1) week's notice to the Union and the employee of a permanent layoff of a full-time employee and forty-eight (48) hours' notice of a permanent layoff of a part-time employee. A permanent layoff is one in which the Employer has no intention of recalling the employee.
- F.** In the case of temporary layoffs caused by strikes, acts of God, power failure or other reasons beyond the control of the Employer advance notice need not be given in regard to the daily or weekly work schedules.

- G.** In an effort to prevent a layoff or reduction of a full-time employee to part-time, said employee may work a schedule which includes up to three (3) straight time nights. The Employer will discuss such condition with the Union prior to implementing such a schedule.
- H.** In effecting permanent transfers between stores, the Employer shall consider seniority in conjunction with ability and practicability, other criteria, the availability of transportation and the travel required.
- I.** The Employer, consistent with the needs of the business, will offer those employees who submit a written request to the Company and the Union an opportunity to be transferred to another store before new employees are hired.
- J.** In effecting temporary transfers, the Employer shall make them as the needs of the business require. When a temporary transfer is necessary, the least senior employee in the store with similar qualifications for the job in question will be transferred. The Employer agrees to pay the difference in cost of transportation to employees temporarily transferred from one store to another when such transfer increases their normal cost of carfare.
- K.** Where an employee has been absent from work due to illness or accident for one (1) week or more, the employee shall be required to give the Employer not less than forty-eight (48) hours' notice, excluding Sunday, of his intention to return to work. Such employee shall have the right to displace a junior employee either full or part-time respectively, regardless of the posted schedule, without notice.
- L.** The Employer shall give the Union twenty (20) days advance notice, or pay in lieu thereof to affected employees, of a permanent store closing except if the store is being replaced. This information is to be

treated confidentially. The Employer and Union agree to meet prior to the store closing, if possible, to resolve the movement of employees affected with the intent to minimize inconvenience.

Section 6.2 - Job Posting and Bidding.

- A.** The Employer agrees to post permanent openings for higher rated classifications resulting in the promotion to a classified position, full-time clerk or part-time clerk. The posting may include transfers of employees from nights to days and days to nights.
- B.** The posting and bidding shall be conducted in the following manner:
 - (1)** The position shall be posted for seven (7) days in a readily accessible location.
 - (2)** Employees desiring to bid on a posted position may do so within the seven (7) day period by contacting their General Store Manager or Assistant General Store Manager and signing the posting form.
 - (3)** The Employer may temporarily assign an employee to the open position while the bid is in progress.
 - (4)** The Employer may permanently fill the position from any source in the event no bid is made during the posting and bidding period.
- C.** The open position shall be filled in the following manner:
 - (1)** In the case of the promotion of a customer service attendant to part-time clerk, the Employer may consider availability and qualifications in conjunction with seniority which

shall prevail in the event qualifications are relatively equal. The successful bidder shall be placed in the position on a sixty (60) day trial period.

- (2)** In the case of the promotion of a part-time clerk to a full-time clerk, the Employer may consider availability and qualifications in conjunction with seniority which shall prevail in the event qualifications are relatively equal. The successful bidder shall be placed in the position on a sixty (60) day trial period in the case of a new job assignment.
- (3)** In the case of the promotion of an employee to a classified position, the Employer shall interview those employees who meet the minimum job requirements as determined by the Employer. The Employer may consider qualifications in conjunction with seniority. The successful bidder shall be placed in the position on a ninety (90) day trial period.
- (4)** The Employer agrees, where practicable, to cross train any employee with at least two (2) years' seniority, who is denied a promotion to a position other than a classified position because the employee has not been trained, provided a request for training had been made by the employee.
- (5)** The Employer shall submit a copy of all posting and bidding forms to the Union and shall retain a copy for at least six (6) months.

Section 6.3 - Discharge and Appeal.

- A.** The Employer shall have the right to discharge any employee for good and sufficient cause. Any employee working for a competitor while on vacation

or time off shall be considered terminated. Competitor shall be defined as a supermarket.

- B.** In the case of a discharge of any employee who has been in continuous service for more than sixty (60) days, such employee shall have the right to appeal to the Union. Unless the Union appeals the discharge in writing within two (2) weeks from the date of discharge, the case will be considered closed with no further right of appeal.
- C.** Upon such appeal, the Employer and the Union shall jointly investigate the reasons for such discharge and the justification therefor.
- D.** If the Union and the Employer cannot agree as to the justification for such discharge, then the matter shall be arbitrated in accordance with the provisions of Article 9.
- E.** In the event that the discharge is found not to be justified, the employee may be reinstated with or without back pay and restoration of privileges and seniority.

ARTICLE 7 - SENIORITY

Section 7.1. Seniority lists shall be established twice each year, in March and in September, and submitted to the Union.

Section 7.2. Seniority for all purposes under this Agreement shall be calculated by continuous service with the Employer from the last employment date with the Employer. Employees laid off and subsequently rehired by the Employer within six (6) months from the layoff date shall retain their former seniority regardless of any change in their places of employment. Likewise, employees absent solely on account of Worker's Compensation or ill health

shall retain their seniority for a period of eighteen (18) months from the date of absence but not thereafter. An employee who does not report for work immediately if available, but in any event within forty-eight (48) hours after notice of recall, shall be considered as having terminated his or her employment, provided that illness incapacitating the employee for work shall be sufficient excuse for not reporting if the Employer is informed of the excuse within such forty-eight (48) hours after receipt of notice of recall. An employee absent from work due to illness or accident shall maintain contact with the store on a weekly basis unless hospitalized.

Section 7.3. If promotions are to be made to supervisory positions, they shall not be restricted by seniority nor made the subject of a grievance. The seniority shall be retained and accumulated for an employee who has been promoted to a supervisory position for a period of one (1) year from the date of his promotion for the purpose of his election to return to his former job.

Section 7.4. An employee shall lose all seniority rights if he or she quits or terminates his or her employment, or is properly discharged. An employee employed elsewhere during an unauthorized absence from work or during a permitted leave of absence shall be considered as having terminated his or her employment.

Section 7.5. The Employer shall comply with the applicable laws of the United States concerning the drafting or enlisting of employees into the military service of the United States, and shall further comply with all applicable laws relating to the reinstatement of said employees to their employment following completion of their military service.

ARTICLE 8 - LEAVE OF ABSENCE WITHOUT PAY

Section 8.1. Any member of the Union who is elected to a full-time position with the Union, or who is elected as a delegate or representative of the Union in any activity necessitating temporary leave of absence from his employment, shall be granted such leave of absence without loss of seniority, and at the end of such service in the business of the Union he shall be re-employed at his former wage rate plus any increase or less any reduction that may have become effective during his absence.

Section 8.2. Such leaves of absence may be renewed and extended for additional periods of office terms by mutual written consent and approval of both the Union and the Employer, subject to the conditions set forth in Paragraph 1 above.

Section 8.3. Any employee may be given a leave of absence not to exceed one (1) year for any reason acceptable to the Employer. This decision shall not be withheld arbitrarily or capriciously.

ARTICLE 9 - GRIEVANCES AND ARBITRATION

Section 9.1. All grievances or disputes arising during the term of this Agreement concerning the interpretation or application of the provisions of this Agreement shall be handled in the manner hereinafter set forth.

Step One: All such grievances or disputes must be brought to the attention of the other party within two (2) weeks after the occurrence.

Step Two: Should the Employer and the Union fail to settle such grievance or dispute arising out of the interpretation or application of the provisions of this Agreement, either party may file its grievance in writing with the other party. A "party" is defined as the Employer or Union but does not include individual employees.

Section 9.2. If any such grievance or dispute cannot be decided between the parties referred to above in Step 2, then the unsettled matter may be submitted to an impartial arbitrator by either party after that party gives five (5) calendar days' written notice to the other party of such grievance or dispute. If the parties cannot agree upon the selection of an impartial arbitrator within five (5) calendar days thereafter, or such additional time as may be mutually agreed upon, then the parties shall submit the matter to the American Arbitration Association for a list of fifteen (15) arbitrators who are members of the National Academy of Arbitrators. Upon receipt of a list from the American Arbitration Association, the parties shall have ten (10) days to select an Arbitrator. The hearing on the matter must be scheduled to commence within sixty (60) days of the selection of the Arbitrator, unless otherwise mutually agreed between the parties. However, the impartial arbitrator shall render his decision, in writing, within thirty (30) days of the close of the hearing unless such time is extended by mutual consent of the parties of such grievance or dispute. Upon notification of selection, the Arbitrator will be made aware of all time requirements set forth herein, and if he or she is unwilling to agree, the parties will select the next ranked Arbitrator from the panel.

Section 9.3. The arbitrator shall not have the authority to amend, modify, or in any manner change this Agreement to establish any terms and conditions under this Agreement. The cost of the arbitrator shall be shared equally by the parties. The decision of the arbitrator shall be final and binding on the parties and employees involved.

Section 9.4. If either party fails to proceed as required by the grievance and arbitration machinery contained in this article, the arbitrator appointed by the American Arbitration Association shall be empowered to hear and decide the case, even if only one of the parties appears at the hearing or presents evidence.

Section 9.5. The right of the Employer or the Union to seek legal recourse against action in breach of Article 13 without submission to the grievance and arbitration procedures of this article is expressly recognized by the parties.

Section 9.6. In the alternative, either party in the event of an alleged or asserted breach of Article 13 may institute expedited arbitration by telegram to American Arbitration Association and the other party, and American Arbitration Association shall designate the arbitrator within twenty-four (24) hours of receipt of telegram. The arbitrator shall promptly hold the hearing, but in no event later than twenty-four (24) hours after the receipt of notice. The award of the arbitrator shall issue forthwith and in no event later than three (3) hours after conclusion of the hearing. The award of the arbitrator shall be in writing and may be issued without opinion. If any party desires an opinion, one shall be issued, but its issuance shall not delay compliance with the enforcement of the award. The arbitrator may award injunctive relief and other appropriate relief. Failure of any party to attend arbitration hearing as scheduled and noticed by American Arbitration Association shall not delay arbitration and arbitrator is authorized to proceed to take evidence as if such party was present. Enforcement of such an award by a court of law is not precluded by election of this alternative procedure.

Section 9.7. The question of damages shall be exclusively for the arbitrator and not for a court of law, except insofar as it may be part of an award enforced by a court.

Section 9.8. It is agreed that this Article 9 shall exclusively define grievances or disputes which may be submitted to the grievance and arbitration machinery.

Section 9.9. This article is the exclusive method of determining employee grievances or disputes concerning the interpretation or application of the provisions of this Agreement. No employee or former employee shall have any right under this Agreement of any claim, proceeding, action or otherwise on the basis or by reason of any claims that the Union or any Union officer or representative has acted or failed to act relative to presentation, prosecution, or settlement of any grievance or other matter as to which the Union or any Union officer or representative has authority or discretion to act or not to act under the terms of this Agreement.

Section 9.10. An employee may request a shop steward or bargaining unit member be present at a disciplinary procedure.

ARTICLE 10 - PROBATIONARY PERIOD AND APPEAL

The first sixty (60) days' employment service of any employee with the Employer shall be considered a probationary period. The Employer may discipline or terminate any employee for any reason whatsoever during the probationary period and there shall be no right of appeal therefrom.

ARTICLE 11 - INDUSTRY EXPERIENCE

New employees shall be given credit for a maximum of one (1) year of previous similar supermarket experience for the purpose of establishing his or her wage rate, provided this experience is declared at the time of the application for employment.

ARTICLE 12 - ENFORCEMENT OF STANDARDS

The Union agrees to do everything within its power to enforce its rules and regulations and the Employer's rules and regulations and through advice, instruction and example to maintain the highest standards of work.

ARTICLE 13 - STRIKES AND LOCKOUTS

Section 13.1. It is hereby agreed by the Union and the Employer that since this Agreement provides for the orderly and amicable adjustment and settlement of any and all disputes, differences and grievances, there shall be no resort to strikes, which includes stoppages, slowdown of work or picketing, by an employee or group of employees. In view of the foregoing, the Union agrees that it will not authorize any strikes or picketing by the employees, except only in the event that the Employer refuses to submit to arbitration as herein provided or to comply with a final judgment or decree of the court of last resort having jurisdiction of the dispute hereunder. Nothing herein contained, however, shall compel any employee to walk through a picket line set up as a part of a duly authorized and legally called strike against the Employer sanctioned hereunder.

Section 13.2. In the event of a threat of, preparation for, or the actuality of any unauthorized or improper work stoppage, walkout or strike, or improper picketing, the Union and all of its officials will take every reasonable action to prevent and to stop such proceedings by any of its members.

ARTICLE 14 - HOURS AND OVERTIME

Section 14.1.

- A.** The basic straight time workweek for full-time employees shall consist of forty (40) hours to be worked in five (5) eight (8) hour days within the workweek. Upon the employee's consent, or to create a full-time position, employees may be scheduled to work four (4) ten (10) hour days or three (3) eight (8) hour days, one (1) six (6) hour day and one (1) ten (10) hour day.
- B.** The basic straight time workweek for all employees will be Monday through Saturday.
- C.** The basic straight time workweek for all employees hired after June 9, 1987 or appointed to full-time after June 9, 1987 will be Sunday through Saturday.

Section 14.2. All work between 5:00 A.M. and 6:00 P.M. shall be at the straight time rate, except as otherwise provided.

Section 14.3.

- A.** The Employer may schedule any full-time employee hired before September 9, 1973 to work any one (1) night except Saturday to 10:00 P.M. at the straight time rate within the forty (40) hour workweek when the store is open for business. A full-time employee, at his option, may be scheduled to work any one (1) night to 12 midnight at the straight time rate within the forty (40) hour workweek when the store is closed for business. Full-time second (2nd) shift employees can work three (3) days and two (2) evenings or two (2) days and three (3) evenings on a mutually agreeable basis.

- B.** The Employer may schedule any full-time employee hired or reclassified from part-time to full-time employment after September 9, 1973 to work any two (2) nights to 12 midnight at the straight time rate within the forty (40) hour workweek when the store is open for business. However, a full-time employee who held that position prior to September 9, 1973, reduced to part-time through no fault of his own and is later restored to full-time status, shall be permitted to work only one (1) night at the straight time rate as provided for in Paragraph 3a. above. Full-time second (2nd) shift employees can work three (3) days and two (2) evenings or two (2) days and three (3) evenings on a mutually agreeable basis.
- C.** In order to create or maintain as many forty (40) hour positions as possible, the Employer may establish work schedules which include up to three (3) straight time nights to twelve (12) midnight. A night crew employee requesting day work may accept such a schedule at the straight time rate in order to transfer from night crew. Full-time second (2nd) shift employees can work three (3) days and two (2) evenings or two (2) days and three (3) evenings on a mutually agreeable basis.
- D.** The Employer may schedule any full-time employee hired or reclassified from part-time to full-time employment after February 13, 1981 to work any five (5) nights, between the hours of 12:00 noon to 12:00 midnight, at the straight time rate within the forty (40) hour workweek. In addition, these employees may be scheduled before 12:00 noon up to three (3) days per week. A full-time employee on the payroll as of February 13, 1981, who worked either a one (1), two (2) or three (3) night schedule, shall continue to maintain such schedule unless he voluntarily accepts a five (5) night schedule.

Section 14.4.

- A.** The Employer may schedule part-time employees to work at the straight time rate between 5:00 A.M. and 2:00 A.M.
- B.** Part-time employees may be employed a maximum of thirty-five (35) hours per week.
- C.** Time and one-half (1-1/2) shall be paid to all part-time employees for hours in excess of thirty-five (35) hours per week or thirty-two (32) hours per week if assigned on a night shift.
- D.** Time and one-half (1½) will be paid for work in excess of five (5) days in any workweek or eight (8) hours in any one (1) day.

Section 14.5. Employees may be scheduled to work up to thirty (30) minutes after store closing hours within the forty (40) hour workweek for full-time employees and within the limit of hours for part-time employees without being eligible for premium or overtime pay, except as otherwise herein provided.

Section 14.6. Work performed by full-time employees before 5:00 A.M. and after 6:00 P.M., except for volunteers and employees hired or promoted to full-time after January 21, 1978 and except as provided in Paragraphs 3 and 5 above, shall be at the overtime rate of time and one-half (1-1/2) the employee's straight time hourly rate except:

- A.** A full-time employee regularly assigned to night crew prior January 21, 1978 shall receive a premium of ten (10%) percent of their basic straight time weekly rate while so assigned or reassigned.

- B.** All other employees regularly assigned to night crew will receive a premium of sixty (\$.60) cents per hour, or ten (10%) percent of their basic straight time payroll rate, whichever is the lesser, for actual hours worked on the night crew.
- C.** When the employee in charge of the night stock crew is off for more than one (1) scheduled night in any given week, the employee replacing him shall receive one-fifth (1/5th) the rate per night.
- D.** Employees regularly assigned to start their day's work at least two (2) days every week before 7:00 A.M. during the period January 19, 1975 through January 21, 1978 are to be paid a premium of ten (10%) percent of their basic weekly rate while so assigned or reassigned. Upon their reassignment to a normal schedule within regular store hours, the premium is to be withdrawn.
- E.** Employees who on or before January 21, 1978 received the ten (10%) percent premium for night crew or early morning shift performed prior to 7:00 A.M., who are involuntarily transferred to day shift, shall have the right to such premiums if reassigned to such work during the term of this Agreement.
- F. (1)** Part-time employees may be assigned to work up to thirty-two (32) hours on a night shift provided, however, they must be assigned for a full shift of eight (8) hours. Part-time employees assigned to a night crew shall receive a premium equivalent to the premium outlined in Paragraph 6a. or b. for hours worked at night.
- (2)** Part-time employees may work any combination of day hours, evening hours and/or night hours in the same workweek provided there are no split shifts. Eight (8) hours will

be the minimum while assigned on the night stock crew and four (4) hours' minimum will apply to day and/or evening hours. However, part-time night crew employees can work a minimum four (4) hour shift on a mutually agreeable basis.

- (3)** Part-time employees may be scheduled to work on the night stock crew by inverse order of seniority. Part-time employees will not lose day hours solely as a result of accepting or not accepting night stock crew work.

G. Those night stock crew employees employed as such prior to January 19, 1975 will be scheduled to work five (5) consecutive eight (8) hour nights except for those employees who voluntarily agree to work otherwise. Other full-time night stock crew employees may bid to fill a newly created schedule of five (5) consecutive eight (8) hour nights.

H. No night crew may start before 10:00 P.M. and finish later than 9:00 A.M. A night crew may be scheduled to work five (5) five eight (8) hour nights or three (3) nights and two (2) days, or three (3) days and two (2) nights if scheduled on a regular basis. Also, on a mutually agreeable basis, night crews may be scheduled for four (4) ten (10) hour nights for the applicable premium pay. There shall be no changing of schedules to avoid paying overtime.

Section 14.7. There shall be no pyramiding of overtime or premium pay. Hours worked at premium pay on Sunday and holidays shall not be included in the computation of weekly overtime.

Section 14.8. All meal periods shall be not less than thirty (30) minutes nor more than one (1) hour. When required on a regular basis and upon the request of the employee, the meal period will be one (1) hour.

Section 14.9. There shall be no split shifts worked by any employee.

Section 14.10. Employees working more than six (6) hours in a work day shall receive two (2) daily rest periods of fifteen (15) minutes each, without loss of pay, one rest period to be in the first half of the work day, the second rest period to be in the second half of the work day as near as possible to the middle of the shift. Employees working six (6) hours or less in any work day shall receive one (1) fifteen (15) minute rest period during the day as near as possible to the middle of their shift.

Section 14.11. Part-time employees, except for fourteen (14) and fifteen (15) year old employees, shall receive a guarantee of four (4) hours' work for each work day he or she shall be scheduled to work provided the employee is regularly and continuously available for such work.

Section 14.12. A daily working schedule listing each employee by his or her full name in ink, in seniority order, shall be posted in a conspicuous place on or before 3:00 P.M. Friday. The Sunday schedule shall be posted on or before 3:00 P.M. Thursday.

Section 14.13. Part-time employees shall be scheduled a minimum of twelve (12) hours work per week, provided they are available to work said hours on a regular and continuing basis. Part-time employees hired on or before February 3, 1980 shall be scheduled a minimum of twenty (20) hours per week, provided they are available to work said hours on a regular and continuing basis. The minimum does not apply to probationary employees, students, part-time employees holding another job, customer service attendants or employees not available. Part-time employees hired after February 3, 1980 and on or before August 4, 1987 shall be scheduled a minimum of sixteen (16) hours per week, provided they are available to work said hours on a regular and continuing basis.

Section 14.14. The Employer, consistent with the needs of the business, will endeavor to accommodate employee requests to their immediate supervisor for early or late shift schedules in the morning, afternoon and evening based on their seniority. This accommodation will not apply to Sunday scheduling. The Employer will not use scheduling, or the threat of scheduling, as a form of discipline.

Section 14.15 - Sunday Work.

- A.** All employees hired on or before April 15, 1993 shall be paid One and one-half (1-1/2) times their straight time hourly rate for all work performed on Sunday. All employees hired after April 15, 1993 and before February 1, 2005 shall be paid an hourly Sunday premium for all work performed on a Sunday based on the following months of service:

<u>Months of Service</u>	<u>Sunday Premium</u>
0 - 12 months	One dollar per hour
12 - 24 months	Two dollars per hour
24 - 36 months	Three dollars per hour
After 36 months	Four dollars per hour

All employees hired on or after February 1, 2005 shall be paid an hourly Sunday premium for all work performed on a Sunday based on the following months of service:

<u>Months of Service</u>	<u>Sunday Premium</u>
0 - 12 months	\$1.00 per hour
12 - 24 months	\$1.50 per hour
24 - 36 months	\$2.00 per hour
36 - 48 months	\$3.00 per hour
48 - 60 months	\$3.50 per hour
After 60 months	\$4.00 per hour

- B.** The Employer may schedule part-time employees to work at the straight time hourly rate on Sunday from 12:01 A.M. to 2:00 A.M., except that part-

time employees assigned to a night shift shall receive the applicable night premium.

- C.** Sunday work, if available, shall be rotated among the employees who are continuously available for Sunday work and who are qualified to perform the work as determined by the Employer, except for that work required for the proper management of a department or store. Sunday rotation shall be by classification. Replacements for employees who are absent on their schedule Sunday, for whatever reason, shall be replaced if necessary by the senior available employee(s) not already scheduled for that Sunday. The call-in replacement time will not affect that employee's regular turn on the rotation list.
- D.** All employees scheduled for Sunday work will be scheduled for a minimum of four (4) hours.

ARTICLE 15 - HOLIDAYS

Section 15.1. For employees hired before February 1, 2005, all work performed on the legal holidays listed in Paragraph 3 below shall be paid at one and one-half (1-1/2) times the employee's straight time hourly rate in addition to the straight time holiday pay. Except as otherwise provided in Section 15.3 of this Agreement, all employees hired on or after February 1, 2005 shall be paid an hourly holiday premium for all work performed on a holiday based on the following months of service:

<u>Months of Service</u>	<u>Holiday Premium</u>
0 - 12 months	\$1.00 per hour
12 - 24 months	\$1.50 per hour
24 - 36 months	\$2.00 per hour
36 - 48 months	\$3.00 per hour
48 - 60 months	\$4.00 per hour
After 60 months	1½ times their straight time hourly rate

Section 15.2. Upon the completion of thirty (30) days' service with the Employer, regular full-time employees shall be paid eight (8) hours at the straight time hourly rate if there is no work to be performed on said holidays, provided the employee works on his or her scheduled work day before and his or her scheduled work day after such holiday, proven illness excepted. Full-time employees who volunteer to work the holiday, if scheduled, must also work on the holiday in order to qualify for holiday pay.

Section 15.3. During the life of this Agreement, the following holidays or the days observed as such shall be celebrated:

New Year's Day	Labor Day
Memorial Day	Thanksgiving Day
Fourth of July	Christmas Day

Employees may use a personal holiday to observe Martin Luther King's Birthday by giving at least two (2) weeks advance notice subject to the scheduling requirements of the department. In the event the Employer is open on Christmas, the Employer agrees it will first actively seek volunteers to staff the store. In the event the Employer cannot schedule the necessary number of employees on a voluntary basis, then the employees in reverse order of seniority shall be obligated to work, provided however, the Employer agrees to no more than minimally staff the store on Christmas day. Those employees who do work on Christmas day will be paid for all hours worked on Christmas day at one and one-half ($1\frac{1}{2}$) times their straight time hourly rate.

Section 15.4. Upon the completion of three (3) months' service with the Employer, regular full-time employees shall be entitled to three (3) personal holidays within each calendar year. One (1) personal holiday shall be taken in each four (4) month period of the calendar year. Personal holidays

may be taken any day of the workweek and the selection of the day chosen shall be on the basis of mutual agreement between the Employer and the employee.

Section 15.5. Part-time employees with three (3) or more months of continuous service with the Employer shall be entitled to three (3) personal holidays of four (4) hours within each calendar year which may be taken in accordance with the conditions as set forth for full-time employees.

Section 15.6. In a week which includes any of these holidays, the workweek for full-time employees is to be composed of thirty-two (32) hours of work in four (4) days and eight (8) hours of holiday time for which employees will receive a full week's pay.

Section 15.7. All work performed by full-time employees in a holiday week, on days other than the holiday and/or Sunday, which is in excess of thirty-two (32) hours, shall be paid for at time and one-half (1-1/2). A full-time employee by mutual agreement may be scheduled to work forty (40) straight time hours in a holiday week. All premium pay shall be computed as one and one-half (1-1/2) times the employee's straight time hourly rate.

Section 15.8. All work performed by eligible part-time employees in a holiday week, on days other than the holiday and/or Sunday, which is in excess of thirty-five (35) hours, shall be paid for at time and one-half (1-1/2). During holiday weeks, part-time employees may be scheduled to work five (5) days within the limitation of part-time hours.

Section 15.9. All part-time employees, upon the completion of sixty (60) days but less than one (1) year of continuous service with the Employer, shall be paid four (4) hours' holiday pay at the straight time hourly rate, provided one of the holidays listed in Paragraph 3 above falls on a day he/she would normally be scheduled to work. Part-

time employees with one (1) or more years of continuous service, regardless of whether they are normally scheduled to work on the day that the holiday falls, shall receive holiday pay of four (4) hours. In either case, the part-time employee must work his/her scheduled work day before and his/her scheduled work day after such holiday, proven illness excepted, and must work at least one (1) day of the holiday week to qualify. Part-time employees who volunteer to work on a holiday, if scheduled, must also work on the holiday in order to qualify for holiday pay. The work schedules shall not be changed to avoid holiday pay.

ARTICLE 16 - LEAVE OF ABSENCE WITH PAY

Section 16.1. All employees who are required to report for jury service or serve on a jury shall be granted time off, when needed, for actual jury duty and will receive the difference between their straight time basic weekly pay and the amount received while on jury duty, except such jury duty fee which they receive while serving on their normal scheduled day off. They will be expected to work when the jury is not in session, but under no circumstances shall the application of this clause result in a change in the employee's basic weekly pay for his normal weekly schedule. When a night crew employee is called to serve on jury duty, he shall be excused from his daily or nightly schedule without loss of earnings. A night crew employee serving on jury duty shall be scheduled to work daytime hours on those days when the jury is not in session.

Section 16.2. After thirty (30) days' employment, five (5) days' bereavement leave shall be granted in the case of the death of an employee's spouse or child, four (4) days bereavement leave shall be granted in the case of the death of a parent, and three (3) days' bereavement leave shall be granted in the case of the death of a brother, sister, mother-in-law, father-in-law, grandparent, grandchild or foster parent of an employee. The time off shall not count Sunday or the employee's scheduled day off. Under no

circumstances shall the application of this clause result in a change in the employee's basic weekly pay. Full-time employees shall be paid eight (8) hours at the straight time hourly rate for each day of bereavement leave, and part time employees shall be paid four (4) hours for each day of bereavement leave.

Section 16.3. New employees, after sixty (60) days of service, shall receive two (2) hours paid leave to attend the Union's orientation program.

ARTICLE 17 - VACATIONS

Section 17.1. All full-time employees shall be granted one (1) week's uninterrupted vacation with full pay for one (1) year of continuous service, and two (2) weeks' uninterrupted vacation with full pay for three (3) years' continuous full-time service occurring at any time within the calendar year.

Section 17.2. All full-time employees who have completed eight (8) years' continuous full-time service, occurring at any time within the calendar year, will be granted three (3) weeks' vacation with full pay, two (2) weeks uninterrupted and one (1) week additional, at a time convenient to both the Employer and the employee.

Section 17.3. All full-time employees who have completed fourteen (14) years' continuous full-time service, occurring at any time within the calendar year, will be granted four (4) weeks' vacation with full pay. Vacation shall consist of two (2) weeks' uninterrupted and two (2) additional weeks, with one (1) week at a time convenient to both the Employer and the employee and the other week scheduled before May 15.

Section 17.4. All full-time employees who have completed twenty (20) years' continuous service, occurring anytime within the calendar year, will be granted five (5) weeks' vacation with full pay, two (2) weeks uninterrupted

and three (3) additional weeks, with one (1) week at a time convenient to both the Employer and the employee, one (1) week before May 15 and one (1) week after September 15.

Section 17.5. Employees who are eligible for three (3) or more weeks of vacation may schedule one (1) week of vacation in days at a time convenient to both the Employer and the employee. These days may not be scheduled the day before or the day after a scheduled holiday or vacation.

Section 17.6. Part-time employees shall be granted vacation with pay, prorated on the average weekly hours for the year, under the same terms and conditions as above set forth for full-time employees.

Section 17.7. All vacations must be taken within the calendar year and may not be accumulated from year to year.

Section 17.8. Vacations may be selected by employees on the basis of length of service with the Employer, subject to the requirements of the Employer's business. After January 1st, but no later than January 15th, for forty-five (45) days from the day of issuance, of each year employees may bid by seniority for the number of vacation weeks they accrued during their anniversary year. Said selection will be awarded on a seniority basis within department. The approved vacation schedule shall be completed and posted within fifteen (15) days of the close of the forty-five (45) day selection period, but at the latest by March 15th in a conspicuous place easily accessible to employees. After the bid period, vacation requests will be honored on a first-come, first-served basis, except that employees may not bump less senior employees who have exercised their vacation selection during the bid period. The employee may take vacation in any of the fifty-two (52) calendar weeks, subject to management approval. Employees may start their vacation on any day which is mutually agreed

upon by the Employer and the employee. The vacation schedule of an employee cannot be changed, except by mutual Agreement.

Section 17.9. Any employee who loses more than thirteen (13) weeks in his anniversary year because of accident or illness shall be entitled to a prorated vacation.

Section 17.10. In the event the services of an employee are terminated, voluntarily or involuntarily, except for discharge due to dishonesty, and except as provided for in Paragraph 11 below, there shall be paid to such employee wages covering the completed period of vacation to which he is entitled upon the termination of such service.

Section 17.11. An employee having completed one (1) year of service and being laid off shall receive as vacation allowance:

- A.** The full week or weeks vacation to whichever he is entitled by reason of his completion of the required year of service, and
- B.** One-twelfth (1/12th) of this sum of each month of additional service based on his anniversary date of employment.

Section 17.12. If one of the specified holidays agreed upon in Article 15, except for the personal holiday, shall fall within the period of the full-time employee's vacation, said full-time employee shall be granted an additional day's vacation or, in lieu thereof, the equivalent of one (1) full day's pay of eight (8) hours based upon the full-time employee's regular straight time rate. This provision shall apply even though the holiday falls on a day of the workweek which would ordinarily be the day off for the full-time employee.

Section 17.13. Employee on-the-job service interrupted by induction into the U.S. Armed Forces will be considered as continuous in determining the length of continuous on-the-job service required for eligibility for various types of vacation grants.

Section 17.14. All vacation pay shall be calculated on the employee's basic straight time hourly rate.

Section 17.15. If an employee is regularly and continuously scheduled to work on a night shift for which a fixed night differential is paid, such differential shall be part of his basic hourly rate for the purpose of computing vacation pay, holiday pay, jury duty pay, funeral leave pay, personal holiday pay, and any other nonproductive hours paid. Night differential does not include premium overtime rates of pay.

ARTICLE 18 - LAUNDRY

All coats and aprons required by the Employer to be worn in the stores and markets shall be furnished and laundered by the Employer. When the employees have agreed, in cooperation with management to have drip dry uniforms, two (2) uniforms shall be supplied to each employee by the Employer.

ARTICLE 19 - UNION STORE CARD

The Union agrees to furnish to the Employer at least one (1) Union store card for each of the Employer's stores covered by this Agreement, to be displayed on such public portion of the premises as the Employer may select. Such cards shall remain the property of and shall be surrendered to the Union upon demand.

ARTICLE 20 - BULLETIN BOARDS

Bulletin boards in the Employer's stores may be used by the Union provided the notices posted thereon are first approved by the Employer's personnel department. This requirement shall not apply to Union meeting notices which contain only time, place and date of meeting.

ARTICLE 21 - VALIDITY OF CONTRACT

The parties hereto agree that should an article, part or paragraph of this Agreement be declared by a Federal or State Court of competent and final jurisdiction in the premises to be unlawful, invalid, ineffective or unenforceable, said article, part or paragraph shall not affect the validity and enforceability of any other article, part or paragraph thereof, and the remainder of this Agreement shall continue in full force and effect.

ARTICLE 22 - STEWARDS

Section 22.1. It is understood that the stewards of the Union at all times shall be the last to be laid off, and the Union shall furnish the Employer with a complete list of stewards which may be supplemented from time to time as may be necessary. It is further understood that the stewards of the Union shall not be transferred from one store to another or from day shift to night shift without the consent of the Union. The Union will not unreasonably withhold its consent to such transfer.

Section 22.2. It is understood that the Union shall use its best efforts to secure as stewards high caliber employees who shall be required to conform to the standards and qualifications required by the Union.

Section 22.3. The stewards or other individual employees covered hereby shall not be considered agents of the Union for the purpose of calling strikes or causing shutdowns, nor are they authorized to call strikes or cause shutdowns.

Section 22.4. Shop stewards shall be entitled to a leave of one (1) day each calendar year with pay for shop stewards training and education. The Union must notify the Employer at least two (2) weeks in advance thereof. The shop steward must, upon returning from the leave, present the store manager with written evidence from the Union that the steward has used the leave for the purpose for which the leave was intended.

Section 22.5. Any person designated as steward by the Union shall receive any and all rights, benefits, duties and privileges of such position, and the Union agrees to designate no more than two (2) persons per location if store is open twelve (12) or more hours per day.

ARTICLE 23 - WELFARE PLAN

Section 23.1. Employees shall be covered for health and welfare benefits as provided by the U.F.C.W. - Pathmark Benefit Plan as follows, subject to the eligibility requirements set forth in the plan:

Benefits	Full Time employees	Part time employees hired before 2/1/05	Part time employees hired on or after 2/1/05
Medical	First day of the month following 6 months of continuous service	First day of the month following 36 months of continuous service for single coverage	First day of the month following 36 months of continuous service for single coverage

Benefits	Full Time employees	Part time Employees hired before 2/1/05	Part time Employees hired on or after 2/1/05
Dental	First day of the month following 6 months of continuous service	First day of the month following 18 months of continuous service for single coverage	First day of the month following 36 months of continuous service for single coverage
Vision	First day of the month following 6 months of continuous service	First day of the month following 18 months of continuous service for single coverage	First day of the month following 18 months of continuous service for single coverage
Prescription	First day of the month following 6 months of continuous service	First day of the month following 18 months of continuous service for single coverage	First day of the month following 36 months of continuous service for single coverage
Legal	First day of the month following 6 months of continuous service	First day of the month following 24 months of continuous service for single coverage	First day of the month following 24 months of continuous service for single coverage
Life Insurance	First day of the month following 6 months of continuous service	First day of the month following 24 months of continuous service for single coverage	First day of the month following 24 months of continuous service for single coverage

Benefits	Full Time employees	Part time Employees hired before 2/1/05	Part time Employees hired on or after 2/1/05
Dependant Coverage	First day of the month following 6 months of continuous service	First day of the month following 48 months of continuous service*	First day of the month following 48 months continuous service option to purchase family coverage**

*Part time employees hired before February 1, 2005 not yet eligible for family coverage will be required to pay a fifteen percent (15%) of the difference between single and family coverage monthly co-pay for one year. The co-pay will be from the 48 months to 60 months of service. After sixty (60) months of service, no co-pay will be required. Such employees who do not elect to pay for family coverage from 48 to 60 months will not be eligible for family coverage. Part time employees hired prior to February 1, 2005 who have 48 months of service will be given a one time option to elect to opt out of family coverage. Those part time employees who elect to opt out will receive a one (1) time lump sum payment of two hundred and fifty dollars (\$250.00), and will have surrendered their right to family coverage. Part time employees who are not yet eligible for family coverage will be given the opt out opportunity upon completion of 48 months. Part time employees who are eligible for family coverage as of February 1, 2005, shall be given the opt out opportunity by April 1, 2005.

**Part time employees hired on or after February 1, 2005 will, upon completion of forty-eight (48) months, be given the opportunity to elect family coverage. If such part time employee elects family coverage, the employee will be required to pay a monthly co-pay equal to the difference between the cost of single coverage and the cost of family coverage.

Section 23.2. The Employer agrees that the Employer Trustees on the UFCW-Pathmark Fund will continue to explore up-to-date medical plan designs to provide quality cost effective care at no increased cost to the Employer.

Section 23.3. All questions concerning health and welfare benefits shall be determined in accordance with the U.F.C.W. - Pathmark Benefit Plan as governed by the Pathmark Stores, Inc. Health and Welfare Plan Document and the U.F.C.W. - Pathmark Benefit Fund's Agreement and Declaration of Trust.

ARTICLE 24 - PENSION PLAN

Section 24.1.

- A.** The Employer shall contribute monthly to be paid quarterly to the United Food and Commercial workers Union and Participating Food Industry Employers Tri-State Pension Fund, except as otherwise provided, for each benefit eligible employee. For the purpose of this Article a "full-time employee" is defined as an employee who is regularly and continuously scheduled to work a forty (40) hour week. The monthly contribution shall be made for each eligible employee, as defined, who is active during the first fiscal week of any fiscal month. There shall be no more than twelve (12) such monthly contributions during any twelve (12) consecutive calendar months.
- B.** The monthly contribution shall not be required on behalf of employees hired and classified as customer service attendants after January 21, 1978, or on behalf of employees hired after January 21, 1978 when transferred to a customer service attendant classification. For the purpose of this paragraph, time spent as a customer service attendant will be applicable following a transfer to a covered classification.

Section 24.2.

- A.** Effective January 1, 2005, the Employer shall contribute the following applicable sums quarterly to the United Food and Commercial Workers Union and Participating Food Industry Employers Tri-State Pension Fund for full-time employees:

<u>Service</u>	<u>Contribution</u>
90 days to 4 years	\$168.75 per month
4 years to ten years	\$253.80 per month
10 years +	\$288.90 per month

- B.** Effective January 1, 2005, the Employer shall contribute the following applicable sums quarterly to the United Food and Commercial Workers Union and Participating Food Industry Employers Tri-State Pension Fund for part-time employees:

<u>Service</u>	<u>Contribution</u>
90 days* to 4 years	\$20.25 per month
4 years to ten years	\$63.45 per month
10 years+	\$79.65 per month

* for part-time employees hired before 2/1/05, 60 days

- C.** The Employer agrees to pay such contributions as are from time to time necessary to maintain the soundness of the Plan as determined by an actuarial body and approved by the Trustees, as provided in Appendix "E" of the Plan.

Section 24.3. It is further understood and agreed that the Pension Plan as amended shall be considered as Appendix I of the Agreement and Declaration of Trust.

Section 24.4. The industry-wide Pension Plan as adopted must have the continuing approval of the Internal Revenue Service as an exempt plan.

Section 24.5. It is agreed that all questions involving pensions not specifically set forth herein shall be determined by the provisions of the Agreement and Declaration of Trust governing the Plan.

Section 24.6. The Union agrees to furnish to the Employer the following Pension Fund and Plan documents on a timely basis:

- A.** Annual Financial Reports
- B.** Annual Actuarial Valuation
- C.** Annual Form 5500
- D.** Current Plan Document and Amendments as they are proposed
- E.** Current Agreement and Declaration of Trust and Amendments as they are proposed
- F.** Notices and Minutes of Trustees' Meetings
- G.** Withdrawal Liability Demand Letters

Section 24.7. The terms of a letter agreement between the parties dated February 4, 1985 are incorporated herein by reference.

ARTICLE 25 - SEVERANCE FUND

The Employer shall contribute to the U.F.C.W. and Employers Supplemental Pension Fund the sum of ten cents (\$.10) per hour for all employees on the payroll as of February 6, 1993. Contributions shall be made for every straight time hour actually worked up to a maximum of forty (40) hours per week for full-time employees and thirty-five (35) hours per week for part-time employees. Employees hired after February 6, 1993 shall not be eligible to participate in the Severance Fund.

ARTICLE 26 - 401K SAVINGS PLAN

Effective March 1, 2001, the Employer will provide a 401k Savings Plan. The Plan will provide for employee contributions only. Plan design details will be contained in the Plan document.

ARTICLE 27 - MISCELLANEOUS WORKING CONDITIONS

Section 27.1. *The Company shall provide to an employee within forty-eight (48) hours after an employee is disciplined, suspended or discharged, written notice of the reason for the discipline, suspension or discharge. Exceptions to this must be brought to the attention of the Union (i.e., employee is not available.) A copy of the notice of a disciplinary suspension or discharge, containing the reason for that action, will be forwarded the Union.*

Section 27.2. No employee handling cash shall be held responsible for any shortage, being cash or cash equivalent, unless:

- A.** The employee is given his or her own register or till.
- B.** The employee must be given the opportunity to count his/her own cash at the beginning and close of the work day and is given the register readings that are taken at the beginning and close of the work day. *Weekly Z-out duties shall also be performed.*
- C.** Only one (1) such employee is empowered to ring up on the cash drawer for which the clerk is responsible.
- D.** The clerk has failed to lock and remove the key when the register is unattended. The key will be accessible to the clerk.

- E.** The employee has read and initialed the cash register policy.

Section 27.3.

- A.** Time clocks will be provided in all stores of the Employer.
- B.** The Employer and the Union agree that a proven violation of established time clock rules, including working before punching in or after punching out, may subject such an employee to disciplinary action up to and including discharge.
- C.** Furthermore, all time during which an employee is suffered or permitted to work or is required to be on duty or on the Employer's premises or at a given work place shall be considered hours worked and recorded on the time cards.

Section 27.4. If a physical examination or health permit is required by the Employer or local government, the cost of the examination or permit shall be borne by the Employer.

Section 27.5. No employee shall be required to take a polygraph test or any other similar examination.

Section 27.6. The Employer agrees to discuss future dress code changes with the Union prior to implementation and recognizes that the Union reserves its right to use the grievance procedure to grieve on this subject.

ARTICLE 28 - WAGES

The wages to be effective during the term of this Agreement are set forth in Schedule "A" annexed hereto and made a part of this Agreement.

ARTICLE 29 - ENTIRE AGREEMENT

This Agreement, upon execution thereof, shall supersede all previous agreements and supplements hereto which have heretofore been applicable to the employees covered by this Agreement. This Agreement represents the entire Agreement between both parties and there are no other agreements except as set forth herein. Moreover, this Agreement may not be changed or supplemented in any respect, except by an agreement in writing signed by both parties.

ARTICLE 30 - SUCCESSORS AND ASSIGNS

This Agreement shall be legally binding upon the parties hereto, their successors and assigns, or other purchasers of the assets of any of the Employer's stores covered hereby who may succeed to the operation of said store or stores in any other capacity than successor or assignee.

ARTICLE 31 - DURATION OF AGREEMENT

This Agreement shall be effective from January 23, 2005 and shall continue in full force and effect through January 26, 2008, and it shall automatically continue in effect from year to year thereafter under the same terms and conditions applicable during the last year of the original term unless and until either party shall give the other written notice at least sixty (60) days prior to the expiration of the original or any subsequent term or period of its desire to terminate or change this Agreement. In the event either party serves notice with respect to changes in or modification or termination of the Agreement, it is agreed that the parties shall begin negotiations promptly. Pending the outcome of such negotiations, this Agreement shall continue in full force and effect beyond the expiration date, subject, however, to the right of either party to terminate the entire Agreement

upon at least seven (7) days prior written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have set their hand and seal the day and year first a above written.

FOR PATHMARK:

Rick McGinley
VP Labor Relations

Mitch Schafer
Director of Human Resources

FOR UFCW LOCAL 27:

Carvel M. Mays, Jr.
President

Margaret Bohon
V.P. Collective Bargaining

Bernadette Williams
Vice President

Donna Smits
Union Representative

Joe Celli
Union Representative

Phil Lunetta
Shop Steward

Kevin McAleer
Shop Steward

Carol Waite
Shop Steward

Nicolina Wood
Shop Steward

Gary Burgmuller
Committee Member

SCHEDULE "A" - WAGES

A. The following across the board wage increases shall apply to those employees at or above the top of their wage progression on the date such increases are effective:

Effective <u>1/23/05</u>	Effective <u>1/22/06</u>	Effective <u>1/21/07</u>
\$0.30	\$0.35	\$0.40

B. The following minimum weekly wage rates shall apply to the following classifications:

	Effective <u>1/23/05</u>	Effective <u>1/22/06</u>	Effective <u>1/21/07</u>
Grocery & Produce Managers	\$767.12	\$781.12	\$797.12
Customer Service & Non-Food Managers	\$737.12	\$751.12	\$767.12
Night Crew Chief	\$737.12	\$751.12	\$767.12
Dairy, Bakery, Frozen Food & Dairy/Frozen Food Managers hired or appointed after April 15, 1993	\$727.32	\$741.32	\$757.32
Head Cashier	\$729.08	\$743.08	\$759.08
Head Cashiers hired or appointed after June 9, 1987	\$717.32	\$731.32	\$747.32
Back-up Customer Service Manager (appointed at the Employer's discretion)	\$600.00 or a \$35.00 Premium*	\$614.00 or a \$35.00 Premium*	\$630.00 or a \$35.00 Premium*

* Whichever is greater

SCHEDULE "A" - WAGES

CONTINUED

- C.** Full-time and Part-time Clerks hired on or after October 23, 2000 shall be paid progression increases on the following progression scale. Full-time and Part-time Clerks hired before October 23, 2000 who are in progression shall receive their next succeeding progression increases on the following progression scale:

Start	\$6.15
6 months	\$6.50
12 months	\$6.75
18 months	\$7.00
24 months	\$7.50
30 months	\$7.75
36 months	\$8.25
42 months	\$8.75
48 months	\$9.25

- D.** Full-time and Part-time Customer Service Attendants hired on or after October 23, 2000 shall be paid progression increases on the following progression scale. Full-time and Part-time Customer Service Attendants hired before October 23, 2000 who are in progression shall receive their next succeeding progression increases on the following progression scale:

Start	\$ 6.15
6 months	6.50
12 months	6.75
18 months	7.00

SCHEDULE "A" - WAGES

CONTINUED

E. CUSTOMER SERVICE ATTENDANTS:

- 1.** Customer service attendants' duties include cleaning, bagging, carrying out orders, handling empty bottles and bottle refunds, picking up carts, performing parcel pickup, sweeping and mopping the floors, running the buffing machine, cleaning the mens' and ladies' rooms, handling returns or shop-backs, signs, cleaning breakage at all times, pulling cardboard, making bales and blocking and leveling.
- 2.** For the first violation of the rules concerning customer service attendants, there shall be a warning; for the second violation, there shall also be a warning; for the third violation, the customer service attendant classification will be eliminated in that store.
- 3.** These employees are not intended to displace present part-time employees. Customer service attendants on the payroll January 21, 1978, when eligible, will get the same fringe benefits as other employees.
- 4.** Eligible customer service attendants hired after January 21, 1978 shall receive vacations as provided in Article 17 and appropriate days' pay for the legal holidays provided in Article 15.
- 5.** Customer service attendants shall be scheduled a minimum of ten (10) hours work per week provided that they are available to work said hours

SCHEDULE "A" - WAGES

CONTINUED

on a regular and continuing basis. The ten (10) hour minimum does not apply to probationary employees, students, part-time employees holding another job, or employees not available.

6. The pension contribution referred to in Article 24 shall not apply to employees hired and classified as customer service attendants after January 21, 1978.
7. Customer service attendants promoted to part-time after June 9, 1987 will receive full credit for service in determining their proper wage.

F. HORTICULTURE, COFFEE CORNERS, SALAD BARS AND BULK-FOOD The full-time employee assigned to said duties shall be paid the applicable rate for full-time clerks. Part-time employees shall be paid the applicable customer service attendants' rate and receive the applicable customer service attendants' benefits. These employees, except the full-time employee, shall be limited to horticulture, coffee corner, salad bar or bulk-food duties.

G. SELF-SERVICE BAKERY CLERKS

1. Part-time self-service bakery clerks hired after February 4, 1985 to fill positions as openings occur shall receive applicable customer service attendants' rates and benefits.
2. Bakery Department employees as of that date shall not be reduced in classification.
3. The Employer agrees to discuss working conditions with the Union prior to the conversion of an existing department.

SCHEDULE "A" - WAGES

CONTINUED

H. SERVICE CENTER CLERKS

1. Part-time service center clerks hired after February 4, 1985 to fill positions as openings occur shall receive applicable customer service attendants' rates and benefits.
2. Non-Food Department employees as of that date shall not be reduced in classification.
3. The Employer agrees to maintain the number of service center full-time jobs as of that date for the term of the Agreement.

I. ONE HOUR PHOTO FINISHER -The full-time employee assigned to said duties shall be paid fifteen (\$15.00) dollars above the applicable rate.

J. DEPARTMENT MANAGER TRAINEE - The full-time employee assigned to said duties shall be paid ten (\$10.00) dollars per week above the applicable rate. This position will be posted and Department Manager testing will be given.

K. PRICE INTEGRITY COORDINATOR - The full-time employee assigned to said duties shall be paid ten (\$10.00) dollars per week above the applicable rate.

L. LEAD CUSTOMER SERVICE CLERK - Twenty-five cent (\$.25) per hour premium. Employer has right to designate, or not, and full time or part time.

M. LEAD COLD SPOT BAKERY CLERK - Twenty-five cent (\$.25) per hour premium. Employer has right to designate, or not, and full time or part time.

SCHEDULE "A" - WAGES

CONTINUED

- N. FULL TIME BACK-UP CUSTOMER SERVICE MANAGERS** - Appointed after 2/1/05 shall receive a weekly rate of six hundred dollars (\$600.00) or a thirty-five dollar (\$35.00) weekly premium, whichever is greater (plus future ATB increases).
- O.** Any employee relieving a Department Manager for a period of three (3) days or more shall be paid the applicable rate, retroactive to the beginning of such assignment.
- P.** In the event a store converts to a 100% Cold Spot Bakery, none of the Bakery managers shall be reduced as a result of this conversion.

SCHEDULE "B"

UNION JURISDICTIONAL BOUNDARIES

The jurisdictional boundaries of U.F.C.W. Local 27 are as follows:

The territory bounded by the Delaware River on the East and the following towns including these towns and cities: Chester, Pa., Holmes, Pa., Media, Pa., West Chester, Pa., Broomall, Pa., Springfield, Pa., Drexeline area of Delaware County, Kennett Square, Pa., Oxford, Pa., and South to the Canal.

APPENDIX A - WELFARE PLAN

Unless otherwise specified, the following changes will become **effective April 1, 2005**:

- 1.** Physician office visit co-pays to \$20.00 (QPOS and POS II).
- 2.** Change QPOS out of network coinsurance to sixty percent (60%).
- 3.** Change QPOS to include \$250 annual hospitalization co-pay/deductible, \$500 annual maximum per person, \$1,500 family annual maximum, and increase ER copay to \$50.
- 4.** Change POS II out of network coinsurance to sixty percent (60%).
- 5.** POS II individual in network deductible \$50 effective 4/1/05, \$75 effective 4/1/07, and out of network deductible \$400 effective 4/1/05 and \$750 effective 4/1/07. Additionally, the family deductible (which is multiplied by the number of lives covered) will be a maximum of 3 times the individual deductible. Deductible applies to all services, excluding those subject to a co-pay.
- 6.** POS II individual annual out of pocket maximum (the family out of pocket maximum to be multiplied by the number of lives covered, up to a maximum of 3 times) to \$2,000 in network and \$4,000 out of network.

APPENDIX A - WELFARE PLAN **CONTINUED**

- 7.** Change QPOS (HMO) lifetime maximum to the following (the accounting of which will begin on or after 2/1/05):

	<u>Hired before 2/1/05</u>	<u>Hired on or after 2/1/05</u>
Full time employees	\$1,500,000	\$1,000,000
Part time employees	\$ 600,000	\$ 300,000

- 8.** Prescription Co-Pays as Follows:

	<u>Effective 4/1/05</u>	<u>Effective 4/1/06</u>	<u>Effective 4/1/07</u>
Generic	\$5.00	\$10.00	\$10.00
Brand Single Source	\$5.00	\$10.00	\$15.00
Multi Source*	\$15.00 + diff*	\$25.00 + diff*	\$25.00 + diff*

*Employee will pay the co-pay plus the difference between the cost of the generic and the brand (multi source) prescription, to a maximum of \$60.00.

- 9.** For employees hired on or after 2/1/05, an annual Prescription Benefit maximum of \$6,000 per individual for full time employees and \$3,000 per individual for part time employees
- 10.** Twenty-five dollar (\$25.00) annual deductible for all in-network dental non-preventative services.

APPENDIX A - WELFARE PLAN

CONTINUED

- 11.** Dental Max program will be implemented that will reimburse out of network dental services at the same reimbursement levels as in network.
- 12.** Employees hired or promoted to full time on or after 2/1/05 will be eligible for a maximum of ten thousand dollars (\$10,000) life insurance upon completion of ten (10) years of service from date of hire. Part time employees hired on or after 2/1/05 will be eligible for a maximum of fifteen hundred dollars (\$1, 500) life insurance upon completion of two (2) years of service from date of hire.

13. RETIREE HEALTH AND WELFARE

- A.** Full time employees who retire on or after 2/1/05 must meet the following eligibility requirements to receive retiree benefits that will begin at age sixty-two (62):
 - Employees hired before 2/1/05, twenty (20) years of service from date of hire
 - Employees hired on or after 2/1/05, twenty (20) years of full time credited service
 - Minimum age of sixty-two (62)
 - Medical lifetime max \$25,000
- B.** Retirees, both current and future, will be required to make a monthly co-payment to maintain benefits:
 - Current retirees and current employees - fifteen percent (15%) of monthly cost of benefit.
 - Employees hired on or after 2/1/05 - twenty-five percent (25%) of monthly cost of benefit.

APPENDIX A - WELFARE PLAN

CONTINUED

- coverage is tied to the retiree. When coverage for the retiree ends (i.e., age 65 or death), coverage for the dependant also ends.
- C. Retirees will receive the same benefits as active employees, with dependant coverage, amended as follows:

Retired before 2/1/05

- Medical age 62 - 65
- Dental age 55 - death
- Vision age 55 - death
- Prescription age 55 - death. Effective 1/1/06 or at age 65 if later, retiree becomes covered by Medicare Part D prescription coverage. Company will supplement that coverage at \$600.00 per year per retiree, in a medical spending account, to be used by the retiree for prescription expenses of the retiree and/or the retiree's dependants. Employees retired as of 2/1/05 will receive the annual \$600 subsidy till death.

Retired on or after 2/1/05

- Medical age 62 - 65
- Dental age 62 - death
- Vision age 62 - death
- Prescription age 62 - 65. Effective 1/1/06 Prescription at age 65, retiree becomes covered by Medicare Part D prescription coverage. Company will supplement that coverage at \$600.00 per year per retiree, in a medical spending account, to be used by the retiree for prescription expenses of the retiree and/or the retiree's dependants. Employees hired before 2/1/05 who retire on or after 2/1/05 will receive the annual \$600 subsidy till age seventy-five (75). Employees hired on or after 2/1/05 will not be eligible for the prescription subsidy.

January 26, 2005

Mr. Rick McGinley
Vice President, Labor Relations
Pathmark Stores, Inc.
200 Milik Street
Cateret, New Jersey 07008

RE: Floor Care

Dear Mr. McGinley:

This letter confirms the following understanding reached during negotiations resulting in our Collective Bargaining Agreement dated January 26, 2005.

Pathmark Stores, Inc. will have the right to implement the use of an outside floor waxing service in all its stores, provided no employee performing floor waxing duties as of July 19, 1998 will lose hours, pay or their employment as a direct result of the Company using the outside floor waxing servicing.

Please sign and return a copy of this letter indicating your agreement with the foregoing at your earliest convenience.

Very truly yours,

Carvel M. Mays, Jr.
President

FOR THE COMPANY

Rick McGinley, Vice President Labor Relations

January 26, 2005

Mr. Rick McGinley
Vice President, Labor Relations
Pathmark Stores, Inc.
200 Milik Street
Cateret, New Jersey 07008

RE: Schedule Committee

Dear Mr. McGinley:

This letter confirms the following understanding reached during negotiations resulting in our Collective Bargaining Agreement dated January 26, 2005.

The Company and the Union agree to establish a committee to review and discuss part-time scheduling concerns or issues. This will be done on a store by store basis with representatives from both the Company and the Union going to the stores to review the hourly schedules.

Please sign and return a copy of this letter indicating your agreement with the foregoing at your earliest convenience.

Very truly yours,

Carvel M. Mays, Jr.
President

FOR THE COMPANY:

Rick McGinley, Vice President Labor Relations

January 26, 2005

Mr. Rick McGinley
Vice President, Labor Relations
Pathmark Stores, Inc.
200 Milik Street
Carteret, New Jersey 07008

RE: Payroll Deduction for
Active Ballot Club

Dear Mr. McGinley:

The Company agrees it will begin weekly payroll deduction for the Union's Political Action Committee (Active Ballot Club) if at any time during the life of the Agreement the Company has the ability to do so.

Very truly yours,

Carvel M. Mays, Jr.
President

FOR THE COMPANY:

Rick McGinley, Vice President Labor Relations

January 26, 2005

Mr. Rick McGinley
Vice President, Labor Relations
Pathmark Stores, Inc.
200 Milik Street
Cateret, New Jersey 07008

RE: Dunkin Donuts

Dear Mr. McGinley:

This letter is to confirm our understanding that Pathmark will be selling Dunkin Donuts products produced off-site by a Dunkin Donuts franchise. The Dunkin Donuts franchisee will be responsible pursuant to the franchisee's agreement with Dunkin Donuts for managing the Dunkin Donuts operation at each Pathmark store. These managers, assigned by the franchisee, will neither be employees of Pathmark nor members of Local 27. Only one such manager will be assigned to each shift. All in-store personnel working in the Dunkin Donuts operation, other than the Dunkin Donuts Managers, will be Local 27 members pursuant to the Collective Bargaining Agreement between Pathmark Stores, Inc. and Local 27. All disciplining of Local 27 members working in the Dunkin Donuts operation will be handled in accordance with the Collective Bargaining Agreement and will be administered by Pathmark management.

Individuals assigned to the Dunkin Donuts operation will be required to wear Dunkin Donuts' uniforms when working in the Dunkin Donuts section. Under the Dunkin Donuts contract, in the event of staffing shortages, the franchisee may, in limited circumstances, properly staff the kiosk with franchisee employees.

Pathmark will be required under the contract with Dunkin Donuts to meet Dunkin Donuts' quality control and other standards.

Rick McGinley
January 26, 2005
Page 2

It is anticipated the first Dunkin Donuts kiosk will be installed later this year.

Very truly yours,

Carvel M. Mays, Jr.
President

FOR THE COMPANY:

Rick McGinley, Vice President Labor Relations

January 26, 2005

Mr. Rick McGinley
Vice President, Labor Relations
Pathmark Stores, Inc.
200 Milik Street
Cateret, New Jersey 07008

RE: United Food and
Commercial Workers
Union and Participating
Food Industry Employers
Tri-State Pension Fund

Dear Mr. McGinley:

This letter confirms the following renewed understanding reached during negotiations resulting in our Collective Bargaining Agreement dated October 22, 2000:

Contributions to the Pension Fund shall be suspended to the extent that they are not deductible for the Employer's taxable year or period with respect to which the Contribution is made if the Pension fund exceeds the full funding limitation as defined in Section 412 (c)(7) of the Internal Revenue Code and Section 302 (c)(7) of ERISA. The determination as to deductibility shall be based on information reasonably available concerning the funding based on information reasonably available concerning the funding status of the Pension Fund at the time the contribution is to be made. Contributions shall resume as soon as written notice is received from the Fund Actuary or the Internal Revenue Service that the Fund no longer exceeds the full funding limitation.

Rick McGinley
January 26, 2005
Page 2

Please sign and return a copy of this letter indicating your agreement with the foregoing at your earliest convenience.

Very truly yours,

Carvel M. Mays, Jr.
President

FOR THE COMPANY:

Rick McGinley, Vice President Labor Relations

January 26, 2005

Mr. Rick McGinley
Vice President, Labor Relations
Pathmark Stores, Inc.
200 Milik Street
Cateret, New Jersey 07008

RE: Increased Starting Rates
Collective Bargaining
Agreement
Dated January 26, 2005

Dear Mr. McGinley:

This letter confirms the following understanding reached during negotiations resulting in our Collective Bargaining Agreement dated January 26, 2005.

The Employer agrees that if it increases the starting rate in any store, employees on the payroll at that time will be offered the opportunity to transfer to that store.

Please sign and return a copy of this letter indicating your agreement with the foregoing at your earliest convenience.

Very truly yours,

Carvel M. Mays, Jr.
President

FOR THE COMPANY

Rick McGinley, Vice President Labor Relations